

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
HENRY LEE STUCKEY,  
Defendant.

2:11-cr-00021-PMP

**ORDER**

Before the Court for Consideration is Defendant Henry Stuckey's Motion to Vacate Sentence Pursuant to 28 U.S.C. § 2255 (Doc. #68). Defendant Stuckey's Petition is grounded in the argument that he received ineffective assistance of counsel in connection with plea proceedings and sentencing conducted in this case. For the reasons set forth in the Government's Opposition (Doc. #76) the Court finds Defendant Stuckey's Motion must be denied.

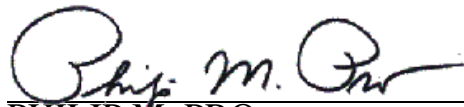
Specifically, Defendant Stuckey has failed to show that the performance of his counsel in this case was deficient nor has he shown that he was prejudiced by deficient performance of defense counsel. Strickland v. Washington, 466 U.S. 668 (1984). Indeed, the record demonstrates clearly that it was Defendant Stuckey himself who vacillated repeatedly concerning whether he accepted responsibility by acting with the requisite intent to defraud. Defendant Stuckey now attempts to blame his attorney for his own conduct. However, the affidavit of Defendant's counsel clearly establishes

1 that representation was effective under the standards established in Strickland v.  
2 Washington. The Court finds no evidentiary hearing is necessary to enable the Court  
3 to adjudicate this Motion. The Court further finds that no Certificate of Appealability  
4 is warranted.

5 **IT IS THEREFORE ORDERED** that Defendant Stuckey's Motion to Vacate  
6 Sentence Pursuant to 28 U.S.C. § 2255 (Doc. #68) is **DENIED**.

7 **IT IS FURTHER ORDERED** that no request for Certificate of Appealability  
8 shall issue.

9 DATED: December 2, 2014.

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12 PHILIP M. PRO  
13 United States District Judge  
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